Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	

Reply Comments of the
Ad Hoc Telecommunications Users Committee

Susan M. Gately
Economics and Technology, Inc.
Two Center Plaza, Suite 400
Boston, MA 02108-1906
617-227-0900

Economic Consultant

James S. Blaszak
Levine, Blaszak, Block & Boothby, LLP
2001 L Street, NW, Suite 900
Washington, D.C. 20036
202-857-2550

Counsel for
Ad Hoc Telecommunications
Users Committee

July 20, 3005

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Summary

Although the record manifests an overwhelming consensus that current intercarrier compensation mechanisms are economically indefensible and should be reformed, the parties do not agree on a replacement mechanism. The Commission should not expect agreement from entrenched interests with much at stake. Nevertheless, prompt Commission action is needed. The false price signals produced by the current mechanisms induce investments and technology deployment decisions that at best are based on incorrect or partial information. None of this is good for the economy, or more narrowly for purchasers of telecommunications goods and services.

Parties that argue that the Commission should not cap multi-line business (MLB) subscriber line charges (SLCs) have ignored the overwhelming evidence that MLB customers, except in isolated pockets, do not have competitive choices for switched or special access services. These parties, as is often the case in this record, have presented no data to support their contentions. The Commission should protect all telecommunications consumers, business as well as residence, from unchecked market power.

No party has justified embedding revenue neutrality for any class of carrier in intercarrier compensation reform. Ad Hoc would agree that all carriers subject to rate regulation enjoy a constitutional protection against unjust confiscation of their property. That protection, however, is a much different matter than revenue neutrality. No party has provided a cost, legal or policy basis for revenue neutrality for any class of carrier.

Nor has any party presented data to support assertions that without revenue neutrality telephone service will be unaffordable for some people. The record is devoid of the data needed to support revenue neutrality for the sake of affordability. Claims about rate comparability suffer from the same deficiency.

Given the state of the record, Ad Hoc renews the suggestion made in its comments that the Commission defer including the RLECs in the first stage of intercarrier compensation reform. This approach would save the already bloated high cost component of the Universal Service Fund from growing even larger, while realizing the benefit of intercarrier compensation reform in other areas. RLECs and their subscribers present special concerns that warrant further study. In the meantime, the Commission should proceed with intercarrier compensation reform for other regions. The Commission should revisit intercarrier compensation reform for RLECs after it gains experience with the reformed system and it, perhaps in conjunction with the Federal–State Joint Board, investigates further reforming inter-carrier compensation for the RLECs.

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The Ad Hoc Telecommunications Users Committee (hereinafter "Ad Hoc" or the "Committee")[1] hereby submits its reply to comments filed in response to the Commission's March 3, 2005 *Further Notice of Proposed Rulemaking* (*FNPRM*) in the above-captioned docket.[2]

I. Consensus Exists That The Current Situation Is A Mess.

The comments reflect a consensus that existing intercarrier compensation mechanisms produce disparate charges for the same functions, and thereby distort investment and purchasing decisions and produce economic loss. The parties, however, do not agree on a replacement system or the cost basis for the replacement system. Parties also disagree on whether the Commission has sufficient authority to mandate a unified intercarrier compensation regime.

Despite the disagreement among the parties on important issues, excessive, non-cost-based access charges cannot continue. The growth of IP

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1 Ad Hoc is an unincorporated, nonprofit entity that accepts no carrier funding and exists to represent its members' interests in telecommunications matters pending before governmental authorities. Ad Hoc's members are all substantial purchasers of telecommunications services, and are considered "enterprise customers" within the telecommunications industry. Fourteen of Ad Hoc's nineteen members are in the Fortune 500.

2 *Developing a Unified Intercarrier Compensation Regime,* CC Docket No. 01-92, FCC 05-33 (rel. Mar. 3, 2005).

telephony and the entry of the Bell Operating Companies into the inter-exchange long distance market can lead, under existing intercarrier compensation mechanisms, to expensive, uneconomic purchase decisions and to unfair price pressures.[3] Accordingly, Ad Hoc urges the Commission to move forward with this proceeding with a sense of urgency.

II. Contrary To Conclusory Assertions Of Some Parties, Competition Is Insufficient To Inhibit SLC Increases Or To Justify LEC Pricing Flexibility.

The initial comments suggest that it is widely assumed that intercarrier compensation reform will result in some costs presently recovered through intercarrier charges being recovered through increases in the Subscriber Line Charge (SLC) or some other end-user charge. Corroborating Ad Hoc's position in its initial comments,[4] there has been no evidence proffered by any other parties in this proceeding to support the notion that increases to SLCs or other end user charges should be borne exclusively or even disproportionately by multi-line business customers. Some Competitive Local Exchange Carriers (CLECs) have suggested that, unlike residential and small business customers, larger businesses do not require regulatory protections from unreasonable increases in the multi-line business SLC because of "competitive" options available to them. These parties assert that while residential and small business customers need to be protected by regulatory mechanisms from increases in the SLC or other per-line charges associated with exchange access services, multi-line business customers – by virtue of their competitive options – do not. For instance, in their joint comments, Time Warner Telecommunications, Cbeyond,

[3] Ad Hoc Comments at 5 – 6.
[4] Ad Hoc Comments at 17 – 22.

Conversent, and Lightship Telecom propose that "the Commission should allow gradual increases in the caps applicable to SLCs, with the eventual elimination of the cap on multi-line business (MLB) SLCs."[5] XO also speaks of the possible elimination of the SLC cap for multi-line business lines, but only if "competition rebounds from the set backs caused by the court of appeals' Unbundled Network Element remands, and the business market appears to be growing more competitive."[6] XO at least realizes that effective competition, while perhaps possible in the future, is not the *status quo*, even for multi-line business customers.

Ad Hoc does not dispute the lack of competition for residential and small business telecommunications services and the possibility that incumbent local exchange carriers (ILECs) will take advantage of this condition. Ad Hoc, however, objects to assertions or suggestions that MLB customers enjoy effective competition for their telecommunications services.

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5 Time Warner Telecom, Inc., Cbeyond Communications LLC, Conversent Communications Inc. and Lightship Telecom (hereinafter "Time Warner Telecom *et al.*") Comments, at 34. Interestingly, while willing to see multi-line business SLCs increase without limit on a uniform basis, Time Warner Telecom *et al.* strongly oppose giving ILECs pricing flexibility to charge variable multi-line business SLCs. These CLECs recognize that competition for business services is, at best, uneven, giving rise to opportunities for anti-competitive pricing behavior. Time Warner Telecom *et al.* Comments at 4, 38, see also XO Communications Comments at 18-19. Based on many negative experiences with ILEC pricing flexibility, the Ad Hoc Committee agrees that giving the ILECs wide latitude to charge different SLC rates could harm both competition and consumers.

6 XO Communications, Inc. Comments at 19.

As Ad Hoc has demonstrated conclusively in numerous proceedings,[7] the assumption (since its proponents rarely even attempt to substantiate it with evidence) that MLB customers have plentiful competitive options for their special access and local exchange telecommunications requirements is simply a myth.[8] MLB users – including the largest corporate customers that comprise the Ad Hoc Committee – purchase very significant quantities of telecommunications services for which there is little or no competition. Although competitive carriers have constructed their own facilities to serve MLB customers in isolated instances, far more often the ILEC is the "only game in town" for special access or PBX exchange trunks.[9] Cable telephony, which is available to many residential users, is not typically an option for large businesses, both because it is commonly deployed only in residential areas and because of other limitations (such as security).[10] Wireless services, while still far from being considered a "substitute" for wireline service to residential customers, function even less well as a

7 See, *e.g.*, Ad Hoc Comments filed June 13, 2005 (Attachment A, "Competition in Access Markets: Reality or Illusion. A Proposal for Regulating Uncertain Markets," Economics and Technology, Inc. (August 2004) ("ETI White Paper")), in *Special Access Rates for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25 and RM-10593, *Order and Notice of Proposed Rulemaking*, 20 FCC Rcd 1994 (2005) ("Special Access Pricing Flexibility Proceeding"). The *ETI White Paper* was also filed on September 30, 2004 as an ex parte presentation in the Triennial Review Remand Proceeding (*Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability)*, CC Docket Nos. 04-313, 01-338, 96-98, 98-147. Attachment B to Ad Hoc's June 13, 2005 Comments in the Special Access Pricing Flexibility Proceeding, Declaration of Susan M. Gately, elaborates on and updates certain data contained in the *ETI White Paper*.

8 The *ETI White Paper* cited above, and the June 13, 2005 Declaration of Susan M. Gately updating certain data contained therein are filed as Attachments A and B to these comments.

9 *ETI White Paper* at 11 – 22.

10 *ETI White Paper* at 22 – 23.

competitive “substitute” for business customers.[11] Thus, in many instances, MLB customers have even fewer competitive choices than residential customers.

Most recent statistics suggest that there are 177-million subscriber lines presently in service across the U.S. and that some 46-million of those lines are provided to entities “other” than residential and small business subscribers.[12] CLECs, including cable companies, provide only about 9.5-million lines over their own facilities[13] – suggesting that in 95% of all cases, no viable facilities based competition exists to restrain ILEC pricing practices with regard to any Commission initiated SLC or other end-user charge. Of the 8.5-million CLEC lines, more than 3.5-million of those are provided by cable companies[14], the vast majority of which are mass market lines, leaving at most a little over 5-million lines that could even possibly be large business lines. Even making the absurd assumption that all of those CLEC lines are being used to provision service to MLB subscribers, that would leave 41-million out of the 46-million “other” (*i.e.*, MLB) subscriber lines with no “competitive” alternatives to discipline ILEC SLC pricing. Whether business or residential customers are in the worse position with regard to the lack of competition is not the issue. Rather, the issue is the manner

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11 *ETI White Paper* at 23 - 24.

12 FCC *Local Competition Report: Status as of December 31, 2004* (rel. July 8, 2005), Tables 1 and 2.

13 FCC *Local Competition Report: Status as of December 31, 2004* (rel. July 8, 2005), Table 3.

14 FCC *Local Competition Report: Status as of December 31, 2004* (rel. July 8, 2005), Table 5. While we are aware of no data documenting the proportion of cable telephony lines sold to residential and small business users, extrapolating from data relative to high-speed cable lines, it is unlikely that many, if any, of those lines serve multi-line subscribers. FCC data that is available relative to high-speed cable lines (internet access) documents that 99.5% of all cable and high speed lines are provided residential and small business subscribers. (FCC *High Speed Services for Internet Access Report: Status as of December 31, 2004* (rel. July 7, 2005), Tables 1 and 3.

in which the Commission should proceed to protect all customers by limiting opportunities for ILECs to implement excessive rates.

III. Revenue Neutrality Has Not Been Justified.

Some parties, such as the United States Telecom Association (USTA), claim that maintenance of existing access charge revenue levels must be a component of intercarrier compensation reform.[15] They at least imply that the nation's telecommunications infrastructure will suffer unless existing revenue levels are maintained.[16]

Ad Hoc agrees that if intercarrier compensation reform alone would prevent a carrier from earning a reasonable return, the Commission should adopt mitigating measures to prevent that result. Ad Hoc's Comments listed at least some of the showings that LECs would need to make to show an inability to earn a reasonable return and to justify drawing funds from the Universal Service Fund (USF) or an Access Restructure Mechanism (ARM).[17] Of course, neither USTA nor any other local exchange carrier (LEC) or LEC trade association have made, or even tried to make, showings that LECs would fail to earn a reasonable return because of intercarrier compensation reform. If carriers have an opportunity to earn a reasonable return, they will be able to attract the capital needed to maintain and update their networks. They need not earn "creamy" returns to attract capital. The history of telecommunications in this country confirms that carriers will not jeopardize or abandon network maintenance and deployment if they are denied "creamy" returns. Indeed, carriers have been most responsive to

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15 *See, e.g.*, USTA Comments at 34.
16 *Id.*
17 Ad Hoc Comments at 12.

market place needs when confronted with competition, competition that can drive prices and returns lower. The Commission should not inject further economic distortion into a reformed intercarrier compensation regime based on the LECs' unsupported and speculative rhetorical claims for revenue neutrality.[18]

USTA also has incorrectly characterized the legal status of existing interstate access charge rates. USTA argues that, "Price cap rates, which are set with consideration given to current access revenue, are already determined to be just and reasonable."[19] According to USTA, the rates would become insufficient if price cap carriers are unable to recover lost access revenues.[20]

As a general proposition, the Commission does not approve access service tariffs, and certainly has not approved the access service rates of Rural Local Exchange Carriers (RLECs). USTA's contention also fails with respect to price cap carriers when evaluated in proper context. The last time that the Commission could be said to have "approved" the switched access service rates of price caps carriers was in 2000. On May 31, 2000, the Commission released a Report and Order that adopted an integrated interstate access reform and universal service proposal put forth by the members of the Coalition for

[18] For example, USTA declares that, "At worst, lost access revenue prevents carriers from operating and maintaining existing networks, leaving consumers with either no service or limited service that is reduced in value because of lower quality and reliability, and that is *likely* to be available at very high cost." USTA continues, "If carriers are not allowed to recover revenue that is lost through reform as part of an intercarrier compensation reform plan, some carriers *might* have to raise rates above affordable or competitively–sustainable levels...." USTA Comments at 35, emphasis added. The best that can be said about USTA's doomsday claims is that it provided no data to support them.

[19] USTA Comments at 36.

[20] *Id.*, at 37.

Affordable Local and Long Distance Service (the CALLS Plan).[21] Therein the Commission adopted the plan as mandatory for all price cap LECs for the five-year term of the plan.[22] In so doing the Commission adopted specific target rates and found those rates just and reasonable for the term of the CALLS Plan. The CALLS Plan term has ended. Moreover, the target rates reflected an average traffic-sensitive rate per minute, and the LECs' actual average traffic-sensitive rate per minute is now well in excess of the target rate.[23] A further reading of CALLS order shows that the Commission viewed the target rates as a reasonable compromise under then existing circumstances.[24] Apparently this proceeding and the Special Access rulemaking are the proceedings in which successor rules to the CALLS Plan will be adopted. Given these circumstances, USTA is simply wrong in arguing that price cap carriers are legally entitled to their current revenue streams. As a transitional measure, the Commission may

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21 *Access Charge Reform,* CC Docket Nos. 96-262, 94-1, 99-249, 96-45, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000), *aff'd in part, rev'd in part, and remanded in part, Texas Office of Public Util. Counsel v. FCC,* 265 F.3d 313 (5th Cir. 2001), *cert. denied, Nat'l Ass'n of State Util. Consumer Advocates v. FCC,* 535 U.S. 986 (2002), *on remand, Access Charge Reform,* CC Docket Nos. 96-262, 94-1, 99-249, 96-45, Order on Remand, 18 FCC Rcd 14976 (2003).

22 *Id.,* at para 29.

23 *Id.,* at para 142, 144, 162.

Following Elimination of X-Factor Driven Reductions, the "Average Traffic Sensitive" Price per Access Minute has Increased for Most CALLS Participants

		Date when average ATS Target of $0.0055 met	*Proposed ATS Rates as of July, 2005*	*Change from $0.0055 Target*
BellSouth	All	8/1/2000	$0.006207	13%
Qwest	All	7/27/2001	$0.005420	-1%
SBC	Ameritech	6/18/2001	$0.006831	24%
SBC	Pacific Bell	5/7/2001	$0.006599	20%
SBC	SWBT	6/17/2002	$0.007252	32%
Verizon	BATL	7/1/2000	$0.007036	28%
Verizon	NYNEX	7/1/2002	$0.006514	18%

Source: Most recent RBOC TRP Filings accompanying FCC-required annual access tariff filings.

24 *Id.,* at para. 178.

opt to allow price cap carriers to collect through Subscriber Line Charges and traffic-sensitive charges in a reformed intercarrier compensation scheme the same amount that they collect immediately prior to implementation of a new intercarrier compensation regime. Consideration of the total amount to be recovered could be accomplished in a subsequent phase of this proceeding. This transitional approach would be far from a conclusion that price cap LECs have a legal entitlement to existing revenue streams. They have no such entitlement and the Commission should not find that they do.[25]

Qwest offers a different, but still meritless, argument for maintenance of revenue stability for price cap carriers. Qwest argues that,

> When the Commission adopts a new ratemaking structure that operates to deprive regulated carriers of the opportunity to earn revenues lawfully due under the earlier rules, the Commission has a statutory and constitutional obligation to allow those carriers the opportunity to recoup those lost revenues from other sources.[26]

Qwest cites *Duquesne Light Co. v. Barasch,* 488 U.S. 299 (1989), for this proposition; and goes on to contend that application of *Duquesne* in the context of this proceeding means that if Commission mandated modification of intercarrier compensation rate structures reduces revenues derived from certain rate elements, the Commission has a duty to modify the rate structure in other ways so that ILECs have an opportunity to recover the lost revenues.[27]

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[25] The immediately preceding section of these reply comments shows that there is insufficient competition to control ILEC pricing. Although some may assert that cable television and wireless service are competitive alternatives to the ILECs for residential and, perhaps, small businesses, that cannot be said of enterprise customers.

[26] Qwest Comments at 25.

[27] *Id.,* at 26.

Qwest's reading of *Duquesne* is wrong. The Commission does not have a legal obligation to give ILECs an opportunity to earn revenues they might lose as a result of reform of intercarrier compensation mechanisms. The *Duquesne* Court correctly observed that public utilities have an unusual "partly public, partly private" status that creates certain Constitutional considerations.[28] As a consequence, the Constitution "[p]rotects utilities from being limited to a charge for their property serving the public which is so 'unjust' as to be confiscatory."[29] The Court cited *FPC v. Texaco,* for the proposition that, "all that is protected against, in a constitutional sense, is that the rates fixed by the Commission be higher than a confiscatory level."[30] None of the ILECs, including Qwest, have even tried to show that their property would be unjustly confiscated if they lost some revenue as a result of intercarrier compensation reform.

The portion of the *Duquesne* decision on which Qwest seems to rely is a passage in which the Court considered changes in rate setting methodologies used to determine rate bases, *not* rate structures. The passage reads as follows:

> The risks a utility faces are in large part defined by the rate methodology because utilities are virtually always public monopolies dealing in an essential service, and so relatively immune to usual market risks. Consequently, a State's decision to arbitrarily switch back an forth between methodologies in a way which required investors to bear the risk of bad investments at some times while denying them the benefit of good investments at others would raise serious constitutional questions. But the instant case does not present this question. At all relevant times, Pennsylvania's rate system has been predominately but not entirely based on historical cost and it has not

28 *Duquesne,* 488 U.S. at 307.
29 *Id.*
30 *Id.,* at 308.

> been shown that the rate orders as modified by Act 335 fail to give a reasonable rate of return on equity given the risks under such a regime.

The dispute before the Court went to property valuation methods. Arbitrarily switching between property valuation methods, *e.g.*, present value versus historical value, could preclude the opportunity to earn a reasonable rate of return. A change in rate structures might produce a similar concern, but only if the change were to preclude the opportunity to earn a reasonable rate of return. Again, neither Qwest nor any other carrier has made such a showing. The Commission is free to change intercarrier compensation rate structures provided that its action is reasonably based and does not confiscate carrier property.[31]

Ad Hoc is not alone in stating that maintenance of existing revenue streams should not be embedded in intercarrier compensation reform. For example the New York Department of Public Service, the National Association of State Utility Consumer Advocates and Pac-West, *et al.*, vigorously oppose revenue assurance as part of intercarrier compensation reform.[32] Finally, it is noteworthy that even the Rural Alliance acknowledges that the Commission does not have a legal obligation to assure revenue neutrality.[33]

Nevertheless, the Rural Alliance argues that the Commission, apparently as a matter of policy, should ensure that LECs have the opportunity to recover their current revenues. According to the Rural Alliance, the “struggling telecommunication industry” needs “stability at this critical time to stimulate the

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[31] Price Cap ILECs have not even tried to show that they would qualify for a “low end adjustment” under the Commission’s Rules, let alone that their property would be confiscated.

[32] New York Department of Public Service Comments at 1; National Association of State Utility Consumer Advocates Comments at 14, 21-22, 28-29; Pac-West, *et al.* Comments at 49.

[33] The Rural Alliance Comments at 74.

nation's economic recovery."[34] Similarly, the National Telecommunications Cooperative Association (NTCA) urges the Commission "[t]o adopt a goal of revenue neutrality for ROR companies," and asserts that this goal would be consistent with the Commission's other goals in this proceeding.[35] There is no data in this proceeding, or in any other proceeding of which Ad Hoc is aware, that supports the contention that LECs generally are "struggling," that their stability would be imperiled if the Commission does not guarantee their existing revenue steams or that the future of the nation's economic recovery hangs in the balance. Surely, Commission "policy" on intercarrier compensation reform will rest on sounder ground than hyperbolic rhetoric of some RLECs. If the Commission were to effectively include revenue neutrality as a lasting component of intercarrier compensation, its decision would be arbitrary and capricious, and, of course, unlawful.

IV. No Party Has Shown That Telephone Service Will Cease To Be Affordable If The Commission Prescribes a Unified Intercarrier Compensation System.

In its comments, NTCA contends that increases in SLCs would necessarily mean that "SLCs in high cost areas would be much greater than SLCs in non-rural areas" and that "[t]he resulting SLCs would not be ... affordable."[36] To the extent that NTCA is assuming that rural carriers are entitled to 100% revenue replacement,[37] its estimate of the magnitude of SLC

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[34] *Id.*

[35] NTCA Comments at 33-34. NTCA's pleading seems to equate cost recovery with revenue neutrality. Ad Hoc's Comments explained that cost recovery and revenue neutrality are very different concepts. Carriers may be entitled to some measure of cost recovery, but have no legal right to revenue neutrality. Ad Hoc Comments at 10-15.

[36] NTCA Comments at 9.

[37] See NTCA Comments at 20-21.

increases is highly inflated. Moreover, there is frequently no relationship between the "high costs" in rural areas and the rates that rural ILECs often choose to charge their customers. Thus, even if intercarrier compensation reform results in some level of SLC increase, there is no basis to assume that this will result in unaffordable rate levels. At a minimum, it is reasonable to require that the resulting rate exceed an affordability benchmark before considering it "unaffordable." Yet NTCA provides no evidence, for any particular level of SLC increase that shows that the resulting rural rates (which vary widely) would be unaffordable.

NASUCA also raises concerns about SLC increases. NASUCA, whose principles for intercarrier compensation reform are otherwise, on the whole, well-considered, takes an unreasonable stance when it opposes any SLC increase whatsoever for residential customers. NASUCA strongly opposes adding support requirements to the USF without a showing of affordability,[38] but then does not consider affordability when it comes to possible increases in the SLC.[39]

Exemption of any particular class of users from the impacts of the restructuring of the existing intercarrier compensation regime on the basis of the kind of hand waving about affordability that is found in this record would be an arbitrary and capricious action on the part of the FCC. As Ad Hoc documented in its initial filing, not only is there *not* evidence that an increase in subscriber line charges would make local telephone service "unaffordable", there *is ample*

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38 NASUCA Comments at 16.

39 NASUCA Comments at 30 – 31.

evidence to the contrary.[40] The Commission simply can not ignore the weight of the evidence and assume that any increase to end user charges for residential and small business are a threat to telephone penetration levels or the affordability of telecom service.

V. The Commission Should Defer Action On RLECs.

Ad Hoc's comments explained that neither price cap LECs nor rate of return RLECs have provided the data needed to support a Commission finding that additional cost recovery would be needed because of implementation of a new intercarrier compensation model.[41] Ad Hoc acknowledged that some RLECs may experience reduced revenues as a result of reformation of intercarrier compensation, but also explained that a reduction in revenues does not prove inability to offer service at rates reasonably comparable to the rates at which service is offered in urban areas.[42] Nor would reductions in revenue necessarily mean that RLECs would be unable to maintain their networks. In conclusion, Ad Hoc stated that,

> It simply makes no sense for the Commission to dramatically increase the amount of USF subsidies flowing to RLECs because the RLECs want to maintain their current revenue level and some parties are willing to make major compromises to RLEC interests, apparently believing that absent some accommodation of the RLECs meaningful reform of the intercarrier compensation system is impossible.[43]

RLEC interests, not surprisingly, have a much different view. For example, the National Exchange Carrier Association (NECA) asserts that, "Pool

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40 Ad Hoc Comments at 17 – 22.
41 Ad Hoc Comments at 12 – 13.
42 *Id.,* at 14.
43 *Id.,* at 15.

members currently receive on average about 29% of their total net telephone operating revenue from intercarrier compensation … and about 31% from Universal Service Funding ….”[44] NECA states that under a pure Bill and Keep approach the Universal Service Fund (USF) would increase $2.3 billion (43%); under the ICF proposal the USF would grow by $1.9 billion (35%) and under the NARUC Draft the USF would jump by $1.7 billion (31%).

Ad Hoc concedes that some additional USF high cost funding *might* be needed, but does not agree that additional USF funding should be predicated on maintenance of existing RLEC revenue streams. The amount of additional USF funding should be a function of true cost recovery and rate comparability needs. Determining the RLECs’ actual cost recovery and rate comparability needs should precede any decision to grow the USF even more. Ad Hoc’s comments pointed out that the Progress and Freedom Foundation, along with other parties, has called for fundamental reform of the USF. The USF cannot keep growing. Ad Hoc also noted that an ongoing Joint Board proceeding could result in significant changes to the cost basis for USF payments to RLECs and the amount of such payments.[45]

In view of the state of the record, Ad Hoc renews its suggestion that the Commission defer its decision on whether to include rate of return RLECs in a reformed intercarrier compensation regime that would materially lower access service rates. The Commission needs facts not more rhetoric, in deciding how much larger, if at all, the USF should grow as a result of intercarrier

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[44] NECA Comments at 4.
[45] Ad Hoc Comments at 16.

compensation reform. Deferring a decision on whether and how to include rate of return RLECs in a new intercarrier compensation scheme would allow the Commission to implement the new system with price cap LECs and gain experience with the new system. Simultaneously the Commission, perhaps in conjunction with the Joint Board, can seek to develop the facts that will allow it to make rational decisions about how to tailor a reformed intercarrier compensation system to secure universal service for rural telecommunications subscribers in a responsible and economically rational way.

Conclusion

In view of the foregoing, the Ad Hoc Telecommunications Users Committee urges the Commission to reform intercarrier compensation mechanisms in a manner consistent with these Reply Comments and Ad Hoc's Comments in this proceeding.

Respectfully submitted,

AD HOC TELECOMMUNICATIONS
USERS COMMITTEE

By: ______________________

James S. Blaszak
Levine, Blaszak, Block & Boothby, LLP
2001 L Street, NW, Suite 900
Washington, D.C. 20036
202-857-2550

Counsel for
Ad Hoc Telecommunications
Users Committee

Susan M. Gately
Economics and Technology, Inc.
Two Center Plaza, Suite 400
Boston, MA 02108-1906
617-227-0900

Economic Consultant

July 20, 2005

Certificate of Service

I, Michaeleen I. Terrana, hereby certify that true and correct copies of the preceding Reply Comments of Ad Hoc Telecommunications Users Committee were served this 20th day of July, 2005 via the FCC's ECFS system.

Michaeleen I. Terrana
Legal Assistant

July 20, 2005